

01/16/02

01-22-02

PTO/SB/05 (11-00)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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UTILITY PATENT APPLICATION TRANSMITTAL

Attorney Docket No. **499962000700**
First Inventor **NATHAN K. OLIVAS**
Title **PACER LETTUCE VARIETY**
Express Mail Label No. **EL 915 531 733 US**

J1040 U.S. PTO
10/052061

01/16/02

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

Express Mail Label No.: **EL 915 531 733 US** Date of Deposit: **January 16, 2002**

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.40 as the date indicated above and is addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

EL 915 531 733 US

CHASE J. TROMBELLA

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

ADDRESS TO: Assistant Commissioner for Patents
Box Patent Application
Washington, DC 20231

- ☒ **Fee Transmittal Form (e.g. PTO/SB/17)**
(Submit an original, and a duplicate for fee processing) - 1 pg IN DUPL
- ☒ **Applicant claims small entity status.**
See 37 CFR 1.27.
- ☒ **Specification** [Total Pages **19**]
(preferred arrangement set forth below)
 - Descriptive title of the invention
 - Cross Reference to Related Applications
 - Statement Regarding Fed sponsored R & D
 - Reference to sequence listing, a table, or a computer program listing appendix
 - Background of the invention
 - Brief Summary of the invention
 - Brief Description of the Drawings (if filed)
 - Detailed Description
 - Claim(s)
 - Abstract of the Disclosure
- ☒ **Drawing(s) (35 USC 113)** [Total Sheets **1**]
- ☒ **Oath or Declaration** [Total Pages **2**]
 - ☒ **Newly executed (original or copy)**
 - ☐ Copy from a prior application (37 CFR 1.63(d))
(for continuation/divisional with Box 18 completed)
 - ☒ **REQUEST FOR CORRECTION OF INVENTORSHIP**
35 USC 116 & 37 CFR § 1.48(d) & (e)
Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR § 1.48(e) - COURTESY COPIES of Petition & Statement as filed 1/16/02 - 9 pgs
- ☒ **Application Data Sheet. See 37 CFR 1.76 - 2 pgs**

- ☐ CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
- ☐ Nucleotide and/or Amino Acid Sequence Submission
(if applicable, all necessary)
 - ☐ Computer Readable Form (CRF)
 - Specification Sequence Listing on:
 - ☐ CD-ROM or CD-R (2 copies); or
 - ☐ paper
 - ☐ Statements verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

- ☒ **Assignment Papers (cover sheet & document(s)) - 1 pg**
- ☐ 37 CFR 3.73(b) Statement (where there is an assignee) ☒ **Power of Attorney - 2 pgs**
- ☐ English Translation document (if applicable)
- ☐ Information Disclosure Statement (IDS)/PTO-1449 ☐ Copies of IDS Citations
- ☐ Preliminary Amendment
- ☒ **Return Receipt Postcard (MPEP 503)**
Should be specifically Itemized
- ☐ Certified Copy of Priority Document(s)
(if foreign priority is claimed)
- ☐ Request and Certification under 35 U.S.C. 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
- ☒ Other **SUBMISSION OF DATES OF FIRST SALE AND FIRST OFFER FOR SALE - 1 pg**

18. If a CONTINUING APPLICATION, check appropriate box and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No: *
Prior application information: Examiner * Group / Art Unit: *

For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. This incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

☒ Customer Number or Bar Code Label



20872
PATENT TRADEMARK OFFICE

or ☐ Correspondence address below

(Insert Customer No. or Attach bar code label here)

Name	MICHAEL R. WARD (REG. NO. 38,651)				
Address	MORRISON & FOERSTER LLP				
	425 Market Street				
City	San Francisco	State	CA	Zip Code	94105-2842
Country	U.S.A.	Telephone	415/268-6237	Fax	415/268-7522

Name (Print/Type)	MICHAEL R. WARD	Registration No. (Attorney/Agent)	38,651
Signature	<i>Michael R. Ward</i>	Date	January 16, 2002

01/16/02
J1044 U.S. PTO

FEE TRANSMITTAL FOR FY 2002

Patent fees are subject to annual revision.

Complete if Known

Application Number	TO BE ASSIGNED
Filing Date	HEREWITH
First Named Inventor	Nathan K. OLIVAS
Examiner Name	To Be Assigned
Group Art Unit	To Be Assigned
Attorney Docket No.	499962000700

TOTAL AMOUNT OF PAYMENT

(\$)**410.00**

METHOD OF PAYMENT

1. ☒ The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number: **03-1952**
 Deposit Account Name: **Morrison & Foerster LLP**

- ☒ Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17
☒ Applicant claims small entity status. See 37 CFR 1.27

2. ☐ Payment Enclosed:

☐ Check ☐ Credit Card ☐ Money Order ☐ Other

FEE CALCULATION

1. BASIC FILING FEE

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	

SUBTOTAL (1) (\$)**370.00**

2. EXTRA CLAIM FEES

				Extra Claims		Fee from below		Fee Paid
Total Claims	10	- 20** =	-0-	x		\$9	=	\$ -0-
Independent Claims	1	- 3** =	-0-	x		\$42	=	\$ -0-
Multiple Dependent							=	\$

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
103	18	203	9	Claims in excess of 20	
102	84	202	42	Independent claims in excess of 3	
104	280	204	140	Multiple dependent claims, if not paid	
109	84	209	42	**Reissue independent claims over original patent	
110	18	210	9	**Reissue claims in excess of 20 and over original patent	

SUBTOTAL (2) (\$)**-0-**

** or number previously paid, if greater; For reissues, see above.

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for ex parte reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,280	241	640	Petition to revive - unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions of the Commissioner	
123	50	123	50	Petitions related to provisional applications	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per properties (times number of properties)	\$40
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$)**40.00**

SUBMITTED BY

Name (Print/Type)	Michael R. Ward	Registration No. (Attorney/Agent)	(38,651)	Telephone	(415) 268-6237
Signature	Michael R. Ward	Date	January 16, 2002		

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Please type a plus sign (+) inside this box → ☐

PTO/SB/21 (08-00)
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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number Of Pages In This Submission

1

Application Number

60/262,308

Filing Date

January 17, 2001

First Named Inventor

George D. GIBSON

Group Art Unit

none

Examiner Name

none

Attorney Docket No.

499963000700

ENCLOSURES (check all that apply)

☒ Fee Transmittal Form - 1 page (in dup)

☒ Fee Authorized to Charge Deposit Account

☐ Amendment / Reply

☐ After Final

☐ Affidavits/declarations

☐ Extension of Time Request

☐ Express Abandonment Request

☐ Information Disclosure Statement

☐ Certified Copy of Priority Document(s)

☐ Response to Missing Parts/ Incomplete Application

☐ Response to Missing Parts under 37 CFR 1.52 or 1.53

☐ Assignment Papers (for an Application)

☐ Drawing(s)

☐ Licensing-related Papers

☐ Petition

☐ Petition to Convert to a Provisional Application

☐ Power of Attorney, Revocation Change of Correspondence Address

☐ Terminal Disclaimer

☐ Request for Refund

☐ CD, Number of CD(s) _____

☐ After Allowance Communication to Group

☐ Appeal Communication to Board of Appeals and Interferences

☐ Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)

☐ Proprietary Information

☐ Status Letter

☒ Other Enclosure(s) (please identify below): Request for Correction of Inventorship Pursuant to 35 U.S.C. 116 & 37 C.F.R. § 1.48(d) - 2 pag s; Statement by Erroneously Named Inventor - 2 pages; and Postcard

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT

Firm

Morrison & Foerster LLP

Individual Name

425 Market Street, San Francisco, CA 94105-2842

Michael R. Ward (Reg. No. 38,651)

Signature

Michael R. Ward

Date

January 16, 2002

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

Express Mail Label No.: EL915578126US

Date of Deposit: January 16, 2002

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and is addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

Chase Trombella

Burden Hours Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231.

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CHASE J. TROMBELLA

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Nathan K. OLIVAS, et al.

Serial No.: TO BE ASSIGNED

Filing Date: HERewith

For: PACER LETTUCE VARIETY

Examiner: TO BE ASSIGNED

Group Art Unit: TO BE ASSIGNED

**SUBMISSION OF DATES OF FIRST
SALE AND FIRST OFFER FOR SALE**

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

As far as the undersigned can determine, the dates of first sale and first offer for sale for the lettuce variety, PACER, was as follows:

	<u>First Offer for Sale</u>	<u>First Sale</u>
PACER	August 14, 2000	August 14, 2000

Dated: January 16, 2002

Respectfully submitted,

By:



Michael R. Ward
Registration No. (38,651)

Morrison & Foerster LLP
425 Market Street
San Francisco, California 94105-2482
Telephone: (415) 268-6237
Facsimile: (415) 268-7522

PATENT
Docket No. 499963000700

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

Express Mail Label No.: EL915578126US

Date of Deposit: January 16, 2002

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Chaase Trombella

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

George D. Gibson

Serial No.: 60/262,308

Filing Date: 01/17/2001

For: NEW LETTUCE VARIETIES

**REQUEST FOR CORRECTION OF INVENTORSHIP
PURSUANT TO 35 U.S.C. 116 & 37 C.F.R. § 1.48(d)&(e)**

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

1. The presently named applicant, George D. Gibson, hereby petitions the Assistant Commissioner to enter the Amendment of the application submitted herewith to add the names of Nathan J. Olivas and Nathan K. Olivas as joint inventors and to remove George D. Gibson as an inventor.

Nathan J. Olivas and Nathan K. Olivas were erroneously omitted in the above application as co-inventors. George D. Gibson was erroneously named as an inventor. Under the present circumstances it is clear that Nathan J. Olivas and Nathan K. Olivas are the true inventors in this

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case. The Patent and Trademark Office is respectfully requested to correct the inventorship.

This amendment has been promptly filed as soon as the inventorship error, made without deceptive intent, was discovered in the above application. In accordance with 37 CFR 1.48(d), the above statement of lack of deceptive intent regarding the addition of Nathan J. Olivas and Nathan K. Olivas is included in this Petition and is signed by Applicants' attorney. In accordance with 37 CFR 1.48(e), the statement of lack of deceptive intent regarding the deletion of George D. Gibson is attached.

2. The fee set forth in 37 C.F.R. § 1.17(q) of 130.00.

☐ is enclosed

☒ is authorized to be charged to Deposit Account 03-1952. A Fee Transmittal (form PTO/SB/17) is enclosed in duplicate for that purpose.

It is believed that applicant has complied with requirements and correction of the inventorship in the present application is respectfully requested.

Respectfully submitted,

Dated: January 16, 2002

By:

Michael R. Ward
Michael R. Ward
Registration No. 38,651
Morrison & Foerster LLP
425 Market Street
San Francisco, California 94105-2482
Telephone: (415) 268-6237
Facsimile: (415) 268-7522

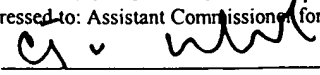
PATENT
Docket No. 499963000700

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Express Mail Label No.: EL915578126US

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Chaase Trombella

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

George D. Gibson

Serial No.: 60/262,308

Filing Date: 01/17/2001

For: NEW LETTUCE VARIETIES

STATEMENT BY ERRONEOUSLY NAMED INVENTOR
PURSUANT TO 35 U.S.C. 116 & 37 C.F.R. § 1.48(e)

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

I, George D. Gibson, was originally named an inventor of the above-referenced application. After further discussions with our attorney, it has become clear that I was named an inventor in error. The inventorship error was made without deceptive intent. Under the present circumstances it is clear that Nathan J. Olivas and Nathan K. Olivas are the true inventors in this application, and the Patent and Trademark Office is respectfully requested to remove me as an inventor.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and

10052061-011602

that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

1/11/02
Date

George D. Gibson
George D. Gibson

10052061-011602

COPY

J1040 U.S. PTO

10/052061



Attorney Docket: 499963000700
Inventor(s): George D. GIBSON
Title: NEW LETTUCE VARIETIES

File Date: January 17, 2001
USSN: 60/262,308

1. Transmittal (1 page)
2. Fee Transmittal (1 page) in dup.
3. Request for Correction of Inventorship (2 pages)
4. Statement by Erroneously Named Inventor (2 pages)
5. This return receipt postcard.

Via Express Mail No. EL915578126US

Mailed: January 16, 2002

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